



# Child Welfare Information Gateway

PROTECTING CHILDREN ■ STRENGTHENING FAMILIES

STATE  
STATUTES  
SERIES

*Current Through  
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## Definitions of Child Abuse and Neglect

Child abuse and neglect are defined by both Federal and State law. The Child Abuse Prevention and Treatment Act (CAPTA) is the Federal legislation that provides minimum standards for the definition of child abuse and neglect that States must incorporate in their statutory definitions. Under CAPTA, child abuse and neglect means, at a minimum:

- Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm.<sup>1</sup>

<sup>1</sup> 42 U.S.C.A. § 5106g(2) (West Supp. 1998)

Electronic copies of this publication may be downloaded at [www.childwelfare.gov/systemwide/laws\\_policies/statutes/define.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/define.cfm)

To find statute information for a particular State, go to [www.childwelfare.gov/systemwide/laws\\_policies/search/index.cfm](http://www.childwelfare.gov/systemwide/laws_policies/search/index.cfm)

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at [www.childwelfare.gov/systemwide/laws\\_policies/statutes/defineall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/defineall.pdf)

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Administration on Children, Youth and Families  
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## Types of Abuse

The term sexual abuse includes:

- The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or
- The rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.<sup>2</sup>

Each State, U.S. territory, and the District of Columbia provides its own definitions of child abuse and neglect. As applied to reporting statutes, these definitions determine the grounds for State intervention in the protection of a child's<sup>3</sup> well-being. Definitions vary among States. For example, some States define child abuse and neglect as a single concept, while others provide separate definitions for physical abuse, neglect, sexual abuse, and/or emotional abuse.

### Physical Abuse

All States and territories provide definitions for physical abuse. The term is generally defined as any nonaccidental physical injury to the child, and can include striking, kicking, burning, or biting the child, or any action that results in a physical impairment of the child.

### Substance Abuse

Substance abuse is an element of the definition of child abuse or neglect in some States.<sup>4</sup> Circumstances that can be considered abuse or neglect include:

- Manufacture of a controlled substance in the presence of child or on the premises occupied by a child<sup>5</sup>

<sup>2</sup> 42 U.S.C.A. § 5106g(4) (West Supp. 1998)

<sup>3</sup> The term "child" means a person who has not attained the age of 18 years.

<sup>4</sup> For a more complete discussion of this issue, see the Information Gateway publication *Parental Drug Use as Child Abuse*, at [www.childwelfare.gov/systemwide/laws\\_policies/statutes/drugexposed.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/drugexposed.cfm).

<sup>5</sup> Colorado, Indiana, Iowa, Montana, South Dakota, Tennessee, and Virginia

- Allowing a child to be present where the chemicals or equipment for the manufacture of controlled substances are used or stored<sup>6</sup>
- Selling, distributing, or giving drugs or alcohol to a child<sup>7</sup>
- Use of a controlled substance by a caregiver that impairs the caregiver's ability to adequately care for the child<sup>8</sup>
- Exposure of the child to drug paraphernalia,<sup>9</sup> the criminal sale or distribution of drugs,<sup>10</sup> or drug-related activity<sup>11</sup>

### **Neglect**

Neglect is also addressed in the statutes of all States and territories, either in a separate definition, or as a type of abuse. Neglect is frequently defined in terms of deprivation of adequate food, clothing, shelter, or medical care. Several States distinguish between failure to provide based on the financial inability to do so and the failure to provide for no apparent financial reason. The latter constitutes neglect.

### **Sexual Abuse/Exploitation**

All States include sexual abuse in their definitions. Some States refer in general terms to sexual abuse, while others specify various acts as sexual abuse. Sexual exploitation is an element of the definition of sexual abuse in most jurisdictions. Sexual exploitation includes allowing the child to engage in prostitution or in the production of child pornography.

### **Emotional Abuse**

All States and territories except Georgia and Washington include emotional maltreatment as part of their definitions of abuse or neglect. Approximately<sup>12</sup> 22 States,<sup>13</sup> the District of Columbia, the Northern Mariana Islands, and Puerto Rico provide specific definitions of emotional abuse or mental injury to a child. Typical

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<sup>6</sup> Arizona and New Mexico

<sup>7</sup> Florida, Hawaii, Illinois, Minnesota, and Texas

<sup>8</sup> Kentucky, New York, Rhode Island, and Texas

<sup>9</sup> North Dakota

<sup>10</sup> Montana and Virginia

<sup>11</sup> District of Columbia

<sup>12</sup> The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through January 2005.

<sup>13</sup> Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Kentucky, Maine, Maryland, Minnesota, Montana, Nevada, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, and Wyoming

language used in these definitions is “injury to the psychological capacity or emotional stability of the child as evidenced by an observable or substantial change in behavior, emotional response, or cognition,” or as evidenced by “anxiety, depression, withdrawal, or aggressive behavior.”

### **Abandonment**

Many States and territories now provide definitions for child abandonment in their reporting laws. Approximately 18 States<sup>14</sup> and the District of Columbia include abandonment in their definition of neglect, while 13 States,<sup>15</sup> American Samoa, Guam, Puerto Rico, and the Virgin Islands provide separate definitions for establishing abandonment. In general, it is considered abandonment of the child when the parent’s identity or whereabouts are unknown, the child has been left by the parent in circumstances where the child suffers serious harm, or the parent has failed to maintain contact with the child or to provide reasonable support for a specified period of time.

## **Standards for Reporting**

The standard for what constitutes an abusive act varies among the States. Many States define abuse in terms of *harm* or *threatened harm* to a child’s health or welfare. Other standards commonly seen include *acts or omissions*, *recklessly fails or refuses to act*, *willfully causes or permits*, and *failure to provide*. These standards guide mandatory reporters in their decision on whether to make a report to child protective services.

## **Persons Responsible for the Child**

In addition to defining the acts or omissions that constitute child abuse or neglect, several statutes provide specific definitions of the persons who are reportable under the civil child abuse reporting laws to child protective services as perpetrators of abuse and neglect. These are persons who have some relationship or regular responsibility for the child. This generally includes parents, guardians, foster parents, relatives, or other caretakers responsible for the child’s welfare.

<sup>14</sup> Colorado, Connecticut, Florida, Illinois, Kentucky, Louisiana, Minnesota, Nevada, New Jersey, North Carolina, Oklahoma, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, and Wyoming

<sup>15</sup> Arizona, Arkansas, Idaho, Indiana, Kansas, Maine, Montana, New Hampshire, New Mexico, New York, North Dakota, Ohio, and South Carolina

## Exceptions

A number of States provide exceptions in their reporting laws, which exempt certain acts or omissions from their statutory definitions of child abuse and neglect. For instance, in six States<sup>16</sup> and the District of Columbia, financial inability to provide for a child is exempted from the definition of neglect. In 14 States,<sup>17</sup> the District of Columbia, American Samoa, and the Northern Mariana Islands, physical discipline of a child, as long as it is reasonable and causes no bodily injury to the child, is an exception to the definition of abuse.

The Child Abuse Prevention and Treatment Act Amendments of 1996 added new provisions specifying that nothing in the Act be construed as establishing a Federal requirement that a parent or legal guardian provide any medical service or treatment that is against the religious beliefs of the parent or legal guardian (42 U.S.C. § 5106i). At the State level, civil child abuse reporting laws may provide an exception to the definition of child abuse and neglect for parents who choose not to seek medical care for their children due to religious beliefs.

Approximately 30 States,<sup>18</sup> the District of Columbia, and Guam provide an exemption from the definition of neglect for parents who choose not to seek medical care for their children due to religious beliefs, while 3 States<sup>19</sup> specifically provide an exception for Christian Science treatment. However, 17 of these States<sup>20</sup> authorize the court to order medical treatment for the child when the child's condition warrants intervention, and 4 States<sup>21</sup> require mandated reporters to report instances when a child is not receiving medical care so that an investigation can be made.

<sup>16</sup> Arkansas, Florida, Louisiana, Pennsylvania, West Virginia, and Wisconsin

<sup>17</sup> Arkansas, Colorado, Florida, Georgia, Indiana, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Oregon, South Carolina, Texas, and Washington.

<sup>18</sup> Alabama, Alaska, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, Vermont, Virginia, and Wyoming

<sup>19</sup> Arizona, Connecticut, and Washington

<sup>20</sup> Alabama, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana, Nevada, Ohio, Oklahoma, and Pennsylvania

<sup>21</sup> Michigan, Missouri, Ohio, and Oklahoma

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.